

REMARKS

Applicants acknowledge the prior oral election of Group I, claims 1-12, for prosecution on the merits. This election was made without traverse. Non-elected claims 13-18 have been canceled.

Claims 2, 3, 4 and 10 have been amended, claim 1 has been canceled and claims 19-25 have been newly added. Support may be found in the claims as originally filed, and on page 2, line 11, page 3, lines 16-17 and the last line, page 12, lines 1-3, the paragraph bridging pages 14 and 15 and in Table 1. No new matter has been added. Entry is requested.

Claims 2, 3 and 10 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

Applicants submit that the foregoing amendment overcomes this ground of rejection. Reconsideration and withdrawal of this rejection is requested.

Claims 1-12 are rejected under 35 U.S.C. § 102 (b) as being anticipated by Atofina FR 2 819 821. The examiner, in applying this foreign language reference, relies on the characterization of this document as a category "X" reference in the International Search Report (reference is made to the Information Statement filed August 30, 2004) and concludes that the claims are not novel.

Applicants disagree.

FR 2 819 821 fails to disclose a hot melt adhesive that comprises a functionalized polyethylene additive as required in applicants' claimed invention. Thus, applicants' claimed invention is not anticipated by FR 2 819 821. Withdrawal is requested.

With respect to the applied FR 2 819 821 document, applicants submit that the examiner's use of the international search report is improper and respectfully request that if this

rejection is maintained that an English-language translation of the portions of FR 2 819 821 relied upon by the examiner be provided to applicants.

Claims 1-4, 6-9, 11 and 12 are rejected under 35 U.S.C. § 102 (e) as being anticipated by Radigon et al. (published U.S. application No. 2004/0122143) or Good et al. (published U.S. application No. 2005/0003197). It is the examiner's position that Radigon discloses hot melt adhesives comprising ethylene 2-ethylhexyl acrylate, tackifiers and waxes referring to claims 1-6, paragraphs 0059-0065 and Tables 1-7 (for other ethylene alkyl acrylates), paragraphs 0068-0072 (for tackifiers and concentrations) and 0073-0076 (for waxes and their concentrations). Good is also cited by the examiner as disclosing hot melt adhesives. The examiner refers to the abstract, paragraph 0037 (ethylene 2-ethylhexyl acrylate, ethylene n-butyl acrylate and their blends), paragraphs 0042-0046 (tackifiers and their concentrations) and paragraphs 0047-0050 (waxes and their concentrations).

Applicants disagree.

Neither Radigon nor Good disclose a hot melt adhesive that comprises a functionalized polyethylene additive as required in applicants' claimed invention. Thus, applicants' claimed invention is not anticipated by either of the Radigon or the Good publications. Withdrawal is requested.

Claims 1-12 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over Atofina FR 2,819,821 in view of Radigon et al. (published U.S. application No. 2004/0122143) or Good et al. (published U.S. application No. 2005/0003197), and further in view of Yalvac (U.S. Patent No. 6,552,110).

Radigon is further cited as showing hot melt adhesives having desirable properties based on ethylene 2-ethylhexyl acrylate and ethylene butyl acrylate copolymers. The examiner urges

that the use of a blend of such copolymers would be obvious to the skilled artisan. Yalvac is cited by the examiner as reciting a thermoplastic marking composition (claim 1), which is a hot melt adhesive (col.7, line 50). The examiner refers to claim 1 (tackifiers), claim 13 (functionalized polyethylene and waxes) and claim 14 (functionalized polyethylene concentrations). The examiner, referring to col. 9, line 35 – col.10, line 32, urges that the functionalized polyethylene is used in addition to the wax component or as a replacement for the wax component. The examiner refers also to col. 8, lines 63 - col. 9, line 34 as disclosing waxes and to col. 7, line 48 - col. 8, line 23 as disclosing tackifiers. It is the examiner's position that it would have been obvious to the skilled artisan to add the functionalized polyethylene of Yalvac to the compositions of the primary and secondary references in order to lower viscosity and improve the heat resistance, the creep resistance and the shear adhesion failure temperature.

Applicants disagree.

There is no disclosure in the cited prior art that would motivate the skilled artisan to add the functionalized polyethylene of Yalvac to the compositions of the primary and secondary references. Yalvac is directed to a thermoplastic marking composition for use e.g., as a hot melt extrusion road marking. The marking composition comprises 10-80 wt % of a binder and 20 to 20 wt % of an inorganic filler. The binder portion comprises a homogeneous polymer and a tackifier and may comprise a polyethylene that has pendant acid functional moieties and/or a non functional wax. The homogeneous polymer is required to have a narrow molecular weight distribution. Useful polymers are described in col. 4 *et seq.* There is no disclosure of the use of ethylene 2-ethylhexyl acrylate copolymers, let alone in combination with ethylene vinyl acetate copolymer or ethylene butyl acrylate copolymers. Exemplified are compositions comprising ethylene/1-octene copolymers. There is no disclosure which would led the skilled artisan to

believe that a polyethylene that has pendant acid functional moieties would be compatible with hot melt adhesive formulations comprising ethylene 2-ethylhexyl acrylate copolymers and no disclosure that the addition of a polyethylene that has pendant acid functional moieties would lower viscosity and improve the heat resistance, the creep resistance and the shear adhesion failure temperature of the hot melt adhesives described in any of the FR 2,819,821, Radigon et al. or Good et al. documents as urged by the examiner.

Applicants submit that the claimed invention is not obvious from the combined disclosures of FR 2,819,821 in view of Radigon et al. or Good et al., and further in view of Yalvac. Withdrawal is requested.

Early and favorable action is solicited.

Respectfully submitted,



Cynthia L. Foulke
Reg. No. 32,364

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National Starch and Chemical Company
P. O. Box 6500
Bridgewater, New Jersey 08807-0500
Telephone No.: 908-685-7483
Telephone No.: 908-685-7483